

REVENUE DEPARTMENT[701]**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 422.7 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 40, “Determination of Net Income,” Chapter 41, “Determination of Taxable Income,” and Chapter 53, “Determination of Net Income,” Iowa Administrative Code.

Legislation passed in 2015 and 2016 made changes to the Iowa Education Savings Plan Trust Program. The 2015 changes allowed participants to deduct certain contributions made after the end of the tax year for which the deduction was claimed, but before the Iowa filing deadline for that year, on their Iowa income tax returns. The 2016 changes allowed certain charitable organizations to establish Iowa education savings plan accounts as participants and provided restrictions on the charitable deductions that individuals and corporations were allowed to take on contributions to those participant organizations. These proposed amendments are intended to update the existing rules to reflect these legislative changes. These amendments also strike some outdated language that is no longer in effect.

Any interested person may make written suggestions or comments on these proposed amendments on or before January 23, 2018. Such written comments should be emailed to Ben Clough at ben.clough@iowa.gov or mailed to Ben Clough, Legal Services, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons wishing to convey their views orally should contact Ben Clough, Legal Services, Department of Revenue, at (515)725-2176 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by January 23, 2018.

Both of the bills this Notice is intended to implement had estimated fiscal impacts on the general fund. These amendments to the Department’s rules have no known fiscal impact beyond that of the legislative changes the amendments are intended to implement.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

After analysis and review of this rule making, the Department finds that the proposed amendments are not likely to have a significant impact on jobs.

These amendments are intended to implement Iowa Code section 422.7 as amended by 2015 Iowa Acts, Senate File 510, and Iowa Code sections 422.9 and 422.35 as amended by 2016 Iowa Acts, Senate File 2301.

The following amendments are proposed.

ITEM 1. Amend rule 701—40.53(422) as follows:

701—40.53(422) Deduction for contributions by taxpayers to the Iowa educational savings plan trust and addition to income for refunds of contributions previously deducted. The Iowa educational savings plan trust was created so that individuals and certain other qualified participants can contribute funds on behalf of beneficiaries in accounts administered by the treasurer of state to cover future higher education costs of the beneficiaries. The Iowa educational savings plan trust includes the college savings Iowa plan and the Iowa advisor 529 plan. The following subrules provide details on how individuals’ net incomes are affected by contributions to beneficiaries’ accounts, interest and any other earnings earned on beneficiaries’ accounts, and refunds of contributions which were previously deducted. Definitions and

other information about establishing college savings Iowa accounts may be found in rules promulgated by the treasurer of state.

40.53(1) *Deduction from net income for contributions made to the Iowa educational savings plan trust on behalf of beneficiaries.*

a. ~~Effective with contributions made on or after July 1, 1998, an~~ An individual referred to as a “participant” can claim a deduction on the Iowa individual income tax return for contributions made by that individual to the Iowa educational savings plan trust on behalf of a beneficiary.

b. For tax years beginning on or after January 1, 2015, if a participant makes a contribution to the Iowa educational savings plan trust on or after January 1, but on or before the deadline for filing an Iowa individual income tax return, excluding extensions, the participant may elect to have the deduction for the contribution apply to that participant’s Iowa individual income taxes for the calendar year immediately preceding the year in which the contribution was made. Once a participant has elected to apply a contribution to the calendar year immediately preceding the year in which the contribution was made, the contribution is deemed to have been made on December 31 of that previous calendar year. Once the election has been made, the deduction for that contribution may only be applied in computing the taxpayer’s Iowa net income for the calendar year immediately preceding the year in which the contribution was made. Contributions made on or after January 1, but before the deadline for filing Iowa individual income taxes, that the participant elects to have applied to the immediately preceding calendar year shall count toward the maximum contribution that may be deducted for that previous year. See paragraph 40.53(1) “c” below.

EXAMPLE: An individual makes a contribution to her Iowa educational savings plan account on April 5, 2018. The deadline for filing a 2017 Iowa income tax return is April 30, 2018. The individual elects to have the contribution apply to her 2017 individual income taxes instead of her 2018 Iowa individual income taxes. The department of revenue will consider the individual’s contribution to have been made on December 31, 2017. The individual may now claim a deduction for the contribution, up to the annual maximum deduction, on her 2017 Iowa income taxes. However, because the individual elected to have her contribution apply to her 2017 Iowa income taxes, she cannot claim the deduction for the April 5, 2018, contribution on her 2018 Iowa income tax return.

c. The deduction on the 1998 Iowa return cannot exceed \$2,000 per beneficiary for contributions made in 1998 or the adjusted maximum annual amount for contributions made after 1998. Note that the maximum annual amount that can be deducted per beneficiary may be adjusted or increased to an amount greater than \$2,000 for inflation on an annual basis. Rollover contributions from other states’ educational savings plans will qualify for the deduction, subject to the maximum amount allowable. Starting with tax years beginning in the 2000 calendar year, a participant may contribute an amount on behalf of a beneficiary that is greater than \$2,000, but may claim a deduction on the Iowa individual return of the lesser of the amount given or \$2,000 as adjusted by inflation. For example, if a taxpayer made a \$5,000 contribution on behalf of a beneficiary to the educational savings plan in 2000, the taxpayer may claim a deduction on the IA 1040 return for 2000 in the amount of \$2,054, as this amount is \$2,000 as adjusted for inflation in effect for 2000.

~~For example, an~~ EXAMPLE: An individual has ten grandchildren from the age of six months to 12 years. In October 1998, the person became a participant in the Iowa educational savings plan trust by making \$2,000 contributions to the trust on behalf of each of the ten grandchildren. When the participant files the 1998 Iowa individual income tax return, the participant can claim a deduction on the return for the \$20,000 contributed to the Iowa educational savings plan trust on behalf of the individual’s ten grandchildren.

40.53(2) *Exclusion of interest and earnings on beneficiary accounts in the Iowa educational savings plan trust.* To the extent that interest or other earnings accrue on a beneficiary’s account in the Iowa educational savings plan trust, the interest or other earnings are excluded for purposes of computing net income on the Iowa individual income tax return of the participant or the return of the beneficiary.

40.53(3) *Including on the Iowa individual return amounts refunded to the participant from the Iowa educational savings plan trust that had previously been deducted.* If a participant cancels a beneficiary’s account in the Iowa educational savings plan trust and receives a refund of the funds in the account

made on behalf of the beneficiary, or if a participant makes a withdrawal from the Iowa educational savings plan trust for purposes other than the payment of qualified education expenses, the refund of the funds is to be included in net income on the participant's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the participant.

~~For example, because~~ EXAMPLE: Because a beneficiary of a certain participant died in the year 2000, this participant in the Iowa educational savings plan trust canceled the participant agreement for the beneficiary with the trust and received a refund of \$4,200 of funds in the beneficiary's account. Because \$4,000 of the refund represented contributions that the participant had deducted on prior Iowa individual income tax returns, the participant was to report on the Iowa return for the tax year 2000, \$4,000 in contributions that had been deducted on the participant's Iowa returns for 1998 and 1999.

~~**40.53(4)** Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust. To the extent that the contribution was not deductible for federal income tax purposes, an individual can deduct on the Iowa individual income tax return a gift, grant, or donation to the endowment fund of the Iowa educational savings plan trust. The contribution must be made on or after July 1, 1998, but before April 15, 2004. Effective April 15, 2004, the deduction for contributions made to the endowment fund is repealed.~~

This rule is intended to implement Iowa Code section 422.7 as amended by 2007 Iowa Acts, House File 923 2015 Iowa Acts, chapter 138, sections 72 and 73, and 2016 Iowa Acts, chapter 1107.

ITEM 2. Adopt the following new subrule 41.5(18):

41.5(18) Charitable contributions relating to the Iowa education savings plan trust. For tax years beginning on or after January 1, 2016, certain qualifying organizations may establish Iowa education savings plan trust accounts as participants, as described in Iowa Code chapter 12D. Taxpayers may make charitable contributions to such qualifying organizations so that the organization can deposit the contribution into the organization's Iowa education savings plan trust account. However, for Iowa income tax purposes, a taxpayer must add back any portion of the federal charitable contribution deduction allowed for a contribution to a qualifying organization, to the extent that the taxpayer designated that any part of such contribution be used for the direct benefit of the taxpayer's dependent or for the benefit of any other specific person chosen by the taxpayer.

ITEM 3. Amend rule 701—53.21(422) as follows:

701—53.21(422) Deduction for contributions made to the endowment fund of Deductions related to the Iowa educational savings plan trust. ~~To the extent that the contribution was not deductible for federal income tax purposes, any gift, grant, or donation to the endowment fund of the Iowa educational savings plan trust may be deducted for Iowa income tax purposes. The contribution must be made on or after July 1, 1998, but before April 15, 2004. Effective April 15, 2004, the deduction for contributions made to the endowment fund is repealed.~~ For tax years beginning on or after January 1, 2016, certain qualifying organizations may establish Iowa education savings plan trust accounts as participants, as described in Iowa Code chapter 12D. Taxpayers may make contributions to such qualifying organizations so that the organization can deposit the contribution into the organization's Iowa education savings plan trust account. However, for Iowa income tax purposes, a taxpayer must add back any portion of the federal charitable contribution deduction allowed for a contribution to a qualifying organization, to the extent that the taxpayer designated that any part of such contribution be used for the direct benefit of a dependent of a shareholder or for the benefit of any other specific person chosen by the taxpayer.

This rule is intended to implement Iowa Code section 422.35 as amended by 1998 Iowa Acts, House File 2449 2016 Iowa Acts, chapter 1107.